

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JERIEHMIE J. FRANETICH,  
Plaintiff,

vs.

SPOKANE COUNTY JAIL, UNITED  
STATES MARSHALS, BENTON  
COUNTY CORRECTIONS FACILITY  
(JAIL),

Defendants.

NO. CV-07-311-FVS

ORDER DISMISSING COMPLAINT

**1915 (g)**

By Order filed February 11, 2008, the court advised Plaintiff of the deficiencies of his initial complaint and directed him to amend or voluntarily dismiss the complaint (Ct. Rec. 7). A copy of this Order sent to Plaintiff at the Spokane County Jail was returned as undeliverable on February 12, 2008. Several more attempts have been made to send a copy of this Order to Plaintiff at the Spokane County Jail and the Benton County Jail, as well as through Plaintiff's appointed counsel in a federal criminal matter. Plaintiff, has not kept the court apprized of his current address and he has filed nothing further in this action.

In his complaint, Mr. Franetich failed to allege facts from which the court could infer identified Defendants were deliberately

1 indifferent to his serious medical needs. *See Farmer v. Brennan*, 511  
2 U.S. 825, 837 (1994). Furthermore, he failed to assert facts from  
3 which the court could infer the named Defendants, Spokane County Jail  
4 and Benton County Corrections Facility (Jail) engaged in a policy or  
5 custom that resulted in a violation of his constitutionally protected  
6 rights. *Gobel v. Maricopa County*, 867 F.2d 1201, 1206 (9th Cir.  
7 1989), (citing *Monell v. New York City Dep't of Social Services*, 436  
8 U.S. 658, 690-94 (1978)).

9 Finally, Plaintiff failed to identify which U.S. Marshal violated  
10 his constitutionally protected rights, when and how such violation  
11 occurred, or state how such individual was acting under color of state  
12 law as required by 42 U.S.C. § 1983. Having granted Plaintiff the  
13 opportunity to amend or voluntarily dismiss, **IT IS ORDERED** the  
14 complaint is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim  
15 upon which relief may be granted. 28 U.S.C. §§ 1915(e)(2) and  
16 1915A(b)(1).

17 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a  
18 prisoner who brings three or more civil actions or appeals which are  
19 dismissed as frivolous or for failure to state a claim will be  
20 precluded from bringing any other civil action or appeal *in forma*  
21 *pauperis* "unless the prisoner is under imminent danger of serious  
22 physical injury." 28 U.S.C. § 1915(g). **Plaintiff is advised to read**  
23 **the new statutory provisions under 28 U.S.C. § 1915. This dismissal**  
24 **of Plaintiff's complaint may count as one of the three dismissals**  
25 **allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to**  
26 **file future claims.**

**IT IS SO ORDERED.** The District Court Executive is directed to enter this Order, forward a copy to Plaintiff at his last known address, enter judgment, and close the file. The District Court Executive is further directed to forward a copy of this Order to the Office of the Attorney General of Washington, Criminal Justice Division.

**DATED** this 23rd day of June 2008.

s/ Fred Van Sickle  
FRED VAN SICKLE  
UNITED STATES DISTRICT JUDGE